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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/659,416	09/11/2000	Arto Astala	NC28244CIP	4624

23860 7590 07/15/2004

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EXAMINER

NGUYEN, PHUOC H

ART UNIT	PAPER NUMBER
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2143

DATE MAILED: 07/15/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/659,416

Applicant(s)

ASTALA ET AL.

Examiner

Phuoc H. Nguyen

Art Unit

2143

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 03 June 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 47-50 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 47-50 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Election/Restrictions*

1. Applicant elects, without traverse, group III claims 47-50, and cancelled the non-elected claims of 1-46, and 51-65 without prejudice. Election was made **without** traverse which can be found in response to election requirement on June 3, 2004.
2. Claims 47-50 are presented for further examination

### *Drawings*

3. The informal drawings filed in the application are acceptable for examination purposes. When the application is allowed, applicant will be required to submit new formal drawings.
4. The drawings are objected to because all drawing is hand drawn and most of the elements are unclear, the letters are not understandable and it is not clear what number is associated with which element. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

### *Claim Rejections - 35 USC § 102*

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims 47-49 rejected under 35 U.S.C. 102(e) as being anticipated by Criss et al. (Hereafter, Criss) U.S. Patent 6,643,506.

7. Regarding to claim 47, Criss teaches a method to activate a configuration tool in a server for managing a configurable controlling function of a the terminal system comprising the steps of:

    sending a configuration upgrade message from server (col. 3, lines 19-22, and col. 7, lines 32-35) saving upgrade information in database (col. 6, lines 66 through col. 7, lines 7; and col. 9, lines 42-46), identifying a plurality of users requiring at least partial software upgrade, and upgrading the server (col. 3, lines 53 through col. 4, lines 12; col. 18, lines 28-39; and col. 18, lines 66 through col. 19, lines 6).

8. Regarding to claim 48, Criss teaches the information updated to server is further on updated to terminal equipment (Figures 4-5, 12, and 13a).

9. Regarding to claim 49, Criss teaches receiving an initial upgrade message in the server (eg. computer host 30) from service provider (eg. Fig. 12, Wan host, 297) to provide an end service product (eg. updated information; col. 3, lines 19-22); receiving end service product (col. 7, lines 32-35); saving the received end service product in a database (col. 6, lines 66 through col. 7, lines; and col. 19, lines 42-46); and identifying a plurality of users having a contract resulting a product transfer remote server get the product information to the server requiring the provided service information (col. 3, lines 53 through col. 4, lines 2; col. 18, lines 28-39; and col. 18, lines 66 through col. 19, lines 6).

***Claim Rejections - 35 USC § 103***

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claim 50 rejected under 35 U.S.C. 103(a) as being unpatentable over Criss.

Criss teaches receiving an initial upgrade message in the server from service provider to provide an end service product, and the end service product is transferred to the server (Figure 12); however, Criss reference fails to teach a virus search is made to the end service product prior to conveying the product to the server.

However, the virus search is made prior to conveying to server is well know and it would have been obvious for person having ordinary skill in the art to include a virus search before transmitting to the server into Criss's teaching in order to protect the server from viruses and prevent it from transmitting itself across network.

***Conclusion***

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

13. McCormack et al. U.S. Patent 6,360,255

Fries et al. U.S. Patent 6,425,125

Hsu et al. U.S. Patent 6,587,684

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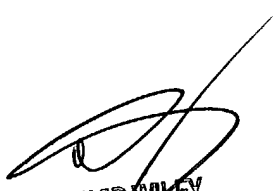
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phuoc H. Nguyen whose telephone number is 703-305-5315. The examiner can normally be reached on Mon -Thu (7AM-4: 30PM) and off every other Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David A Wiley can be reached on 703-308-5221. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Phuoc H. Nguyen  
Examiner  
Art Unit 2143

July 9, 2004



DAVID WILEY  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2100